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James P. Hendrick is Acting Associate Chief of the Division of International Organization Affairs, Office of United Nations Affairs, Department of State. He has served as adviser to Mrs. Franklin D. Roosevelt, United States Member of the Commission on Human Rights, at all sessions of the Commission, and of its Drafting Committee.

AN INTERNATIONAL BILL OF HUMAN RIGHTS

by James P. Hendrick

The United Nations Commission on Human Rights is charged with the task of preparing an international bill of rights. The task is complex. Its goal is definite - the preparation of a document. Its concept is original - no such work has heretofore been undertaken.

Background Work on an International Bill

In 1929 the Institute of International Law met at Briarcliff, New York, to formulate what is generally believed to be the first draft of such a bill. It contained six short articles and covered the following rights: right to life, liberty, property; right to religious practice; right to use of any language; freedom from discrimination on grounds of race, sex, language, or religion; right to nationality. No effort was made to pursue the matter, and the subject lay dormant for over a decade. In 1941 the President of the United States announced the four freedoms as objectives of international importance. A few days after the United States had declared war, the words "human rights" were used for the first time in a United Nations document. 1/ At Dumbarton Oaks provision was made for promoting respect for human rights and fundamental freedoms and later at the Inter-American Conference on Problems of War and Peace, held at Mexico City in 1945, resolutions were passed recognizing the essential importance of human rights in the Inter-American system. 2/ Plans were made for an Inter-American declaration, which is to be considered at the forthcoming Ninth International Conference of American States, scheduled to convene in Bogotá, Colombia. Finally, in the United Nations Charter as drafted at San Francisco, reference was made no less than seven times to human rights and provision was specifically made for the setting up of a Commission on Human Rights. 3/

First Session of the Economic and Social Council

When the Economic and Social Council assembled for its first meeting, in London in January 1946, for the purpose, among others, of constituting a Commission on Human Rights two draft declarations of rights were presented to it, one by Panama 4/ and the other by Cuba. 5/ Later Chile presented a draft declaration to the Commission on Human Rights 6/ and since then a substantial number of other bills have been presented formally or informally. 7/

The Economic and Social Council on February 16, 1946 set up the Human Rights Commission. Nine members were elected to serve as a nuclear group. 8/ The Commission's terms of reference, as approved by the Economic and Social Council, included "work...directed towards submitting proposals, recommendations and reports to the Council re-

garding...an international bill of rights. 9/

Nuclear Commission Session

The nuclear Commission met at Hunter College, New York, from April 29 to May 20, 1946. Beset by many difficulties, 10/ the nuclear Commission nonetheless produced a report which laid the foundation for the work of the permanent Commission on Human Rights. 11/ In addition it recommended provisions for implementation which prompted the Economic and Social Council to consider that "the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, can only be fulfilled if provisions are made for implementation of human rights and of an international bill of rights," and to request the Commission to submit suggestions regarding implementation. 12/

First Session of the Full Commission

The full Commission on Human Rights was elected by the Economic and Social Council at its second session, June 1946. 13/ The full Commission's first session was held from January 27 to February 8, 1947 at Lake Success. Its task was clearly recognized - to prepare an International Bill of Rights. Nonetheless the approach of the members was cautious. General statements were made on the importance of setting forth human rights in an international document. The only indication of a fundamental difference of opinion arose in connection with a speech delivered by the Yugoslav member, Dr. Ribnikar, stating that new economic conditions in the twentieth century had given birth to a collective spirit; that personal freedom could be obtained only through perfect harmony between the individual and the community; and that the social ideal lay in the interests of society and of the individual being identical. 14/ The speech was criticized by another member who stated that today men had no need for protection against kings or dictators, but rather against a new form of tyranny: that exercised by the masses and by the State. 15/

Following the general discussion the Secretariat prepared a list of human rights based on various bills which had been prepared and considered. It soon became obvious that effective drafting could not be accomplished at this meeting by the full Commission. The United States Member thereupon pressed for the adoption of her suggestion 16/that a working group should prepare an initial draft, to be submitted to the second session of the Commission. This suggestion was accepted and the Commission adjourned, having, in addition to the work done on the bill, established a Subcommission on Freedom of Information and of the Press and a Subcommission on Prevention of Discrimination and Protection of Minorities.

Definitive Plan for Drafting of the Bill

The Economic and Social Council considered the Commission's report and an eight point program was adopted for the drafting of a bill envisaging (1) secretariat preparations; (2) consideration by the Human Rights Drafting Committee; (3) consideration by the Human Rights Commission; (4) submission for comment to all member nations; (5) reconsideration by the Drafting Committee; (6) reconsideration by the Commission; (7) consideration by the Economic and Social Council; and (8) consideration by the General Assembly. 17/ The first four steps of this program have now been taken.

First Session of the Drafting Committee

The Human Rights Drafting Committee convened on June 9, 1947. 18/ Before it was a Secretariat outline of a bill with annotation to constitutions of member states - a document of over 400 pages. 19/ The Secretariat outline contained 48 articles. It was designed to cover most of the rights commonly contained in constitutions of member states or in drafts of international bills of rights. The United States, accepting the Secretariat outline as a basis for discussion filed a memorandum suggesting amendments. 20/ Other members made suggestions from the floor. The difficulty of handling a detailed task of drafting with eight members in formal session became evident. A subcommittee was appointed; thereafter the Subcommittee designated one individual - Professor Cassin of France - to prepare the initial redraft. Professor Cassin's redraft contained 46 articles. 21/ Subsequent redrafting reduced the Declaration down to 36 articles. 22/ The Declaration did not purport to be legally binding.

The United Kingdom, however, had filed with the Drafting Committee a proposed covenant (convention) 23/ on human rights which set forth in the form of treaty obligation certain of those civil rights which are presently recognized in the local laws of "civilized nations". 24/

This document, when formally ratified by states, would impose a definite legal obligations. It would, therefore, be an entirely different type of document from a declaration, which would merely require a General Assembly vote and would impose only a moral obligation.

The Committee discussed at some length the advisability of drafting a covenant in lieu of or in addition to a declaration at this time. It was eventually decided to draft substantive articles of the covenant; but since little time was available for detailed consideration, the articles proposed by the United Kingdom were tentatively accepted by the Committee virtually without change. 25/ At the same time it was decided that the final two articles of the Secretariat declaration which in effect purported to make the declaration a legally binding document should not be included in the Drafting Committee's Declaration.

26/

The Drafting Committee, therefore, completed a declaration (without preamble) and substantive articles of a covenant, which were submitted to the Second Session of the Commission, held in Geneva, December 1, 1947.

Second Session of the Human Rights Commission

The second session 27/ of the Human Rights Commission started with a procedural question: should priority be given to the preparation of (1) a declaration, (2) substantive articles for a covenant or (3) measures of implementation? 28/ The obvious compromise which the Commission in due course decided to make was to produce at the same time papers on all three points. The Commission was split into working groups of substantially equal size 29/ which were to report to the full Commission in time for the equivalent of one full day to be spent on each topic.

DECLARATION

The declaration as approved by the Commission contains 33 articles. 30/

Substantive Rights

The substantive rights set forth in the Declaration may be divided into three classes - civil; social and economic; and miscellaneous.

I. Civil Rights

Eighteen articles deal with civil rights which may be summarized as follows:

Personal Liberty: Right to life, liberty, and security of the person (article 4); freedom from slavery (article 8); freedom from torture, cruel or inhuman punishment, or indignity (article 7); freedom from interference with reputation, privacy, family, home, correspondence (article 9); liberty of movement and free choice of residence within states; right to leave country (article 10).

Legal Status: Right to recognition as a person before the law (article 12); equality before the law (article 3).

Provisions Applying to Civil and Criminal Cases: Access to independent and impartial tribunals; fair hearing; aid of qualified representative; 31/ use of foreign language when necessary (article 6); 32/ freedom from wrongful arrest; right to immediate judicial determination of legality of detention (habeas corpus) and to fair trial within reasonable time (article 5). 33/

Additional Provisions Applying to Criminal Cases: Presumption of innocence; fair public trial; freedom from ex post facto laws (article 7). 34/

Freedom from Discrimination: Freedom from discrimination in relation to the rights set forth in the Declaration "without distinction of any kind, such as race (which includes colour), sex, language, religion, political or other opinion, property status, or national or social origin"; 35/ equal protection against "any arbitrary discrimination or against incitement to such discrimination" (article 3). 36/ Provision is also made that men and women "have the same freedom to contract marriage" (article 13); that women shall work "with the same advantages as men" and "receive equal pay for equal work" (article 24). 37/ In addition certain articles provide specifically that the right therein described is granted without discrimination, where such emphasis is considered desirable. 38/

Right to Property: (article 14).

Freedom of religion, information, assembly, and association: (articles 16, 17, 18, 19). 39/

Right of Petition: Right is granted to petition one's state or the United Nations (article 20). 40/

Right to Participation in Government: (article 21). 41/

II. Social and Economic Rights

Nine articles deal with social and economic rights. These may be summarized as follows:

Substantive Rights: Right to engage in public employment (article 22); right to work (article 23); 42/ right to pay commensurate with ability, to just and favorable working conditions, to join trade unions (article 24); right to preservation of health through highest standard of food, clothing, housing and medical care (article 25); right to social security, with special care and assistance for motherhood and children (article 26); right to education (which is to be directed to strengthening respect for human rights)(articles 27, 28); right to rest and leisure and vacations with pay (article 29); right to participate in cultural life (article 30).

Responsibility of the State Regarding Social and Economic Rights:

The description of the social and economic rights refers frequently to the responsibility of the state, at various times expressed in terms of what it can do or what it must do. 43/

On the other hand no reference is made to state responsibility in connection with the enumeration of civil rights, except in the article dealing with participation in government. 44/ Thus everyone is entitled to personal liberty, to a fair trial and to other rights of this character, but nothing is said as to the duty of the state to insure these rights. 45/

As presently drafted, therefore, the Declaration shows a curious lack of balance, superficially indicating that the state must be more concerned with social and economic rights than with civil rights.

III. Miscellaneous Rights

Included under the category of miscellaneous rights are the two rights in the Declaration which are of a purely international character and rights of minorities. The international rights deal with asylum and nationality (articles 11 and 15). 46/ The provision on minority rights (article 31) presented an extremely difficult problem; the Commission refrained from approving or disapproving a provision for them. 47/

A further right, the right to resist tyranny and oppression, is to be considered for inclusion in the preamble. 48/

Articles of Limitation

Although there was detailed discussion of what rights could to some extent be abridged in connection with the covenant, and mention was made of freedom from torture as being one which could not be abridged in any way, 49/ the Commission made no effort to affirm in the Declaration any "absolute" rights other than individual freedom of thought and conscience. 50/ It was recognized in Article 2 that rights are limited, first, by the "rights of others" and second, by the "just requirements of the democratic state". 51/

The provision for rights of others is designed to take care of what might be described as conflicting rights. One man's right to freedom of speech (article 17) does not authorize him to slander another's reputation, since under Article 9 the other has the right to protection of his reputation. The existence of conflicting rights is ordinarily evident from the context of the Declaration. 52/

The Declaration contains no such guidance as to what is meant by the "just requirements of the democratic state"; nor does it give any indication of what these requirements may be except that all laws shall be "in conformity" with the purposes and principles of the Charter (article 32) and that no state (or person) may engage in any activity aimed at the destruction of rights prescribed in the declar-

ation (article 33). Reference to the Covenant, however, indicates the type of state action which may be contemplated: deprivation by the State of life 53/ for crime legally warranting such penalty; 54/ imposition of obligation of emergency service in case of fire or flood 55/ despite declaration of freedom from slavery; 56/ prohibition of assembly, 57/ if it obstructs traffic. 58/

Specific limitations are occasionally detailed in individual articles for purposes of emphasis: 59/ the over-all limitation clause (article 2) could easily be construed to authorize their imposition without detailed enumeration.

COVENANT

The covenant differs from the Declaration in that it is clearly intended to constitute a legally binding obligation and in that it covers a relatively small number of rights. In addition, in its present form it spells out, where appropriate, specific limitations to each right.^{60/}

Substantive Rights

The specific rights contained in the Covenant and their limitations may be summarized as follows (with cross references to the Declaration articles given in parenthesis):

<u>Article</u>	<u>Right</u>	Right not applicable in case of - _____
5	Right to Life (Declaration Article 4).	Proper criminal conviction.
6	Freedom from mutilation or scientific experimentation (No corresponding Declaration Article).	No exception.
7	Freedom from torture, cruel or inhuman punishment or indignity (Declaration Article 7).	No exception.
8	Freedom from slavery or forced labor (Declaration Article 8, referring to slavery only).	Proper criminal conviction, military service ^{61/} , emergency service, communal service.
9	Right to personal liberty (Declaration Articles 4 and 5; right to "liberty... and security of the person," freedom from wrongful arrest.	Arrest in proper court proceedings, retention of insane, custody of minors.
	Prompt information of charges in case of arrest (No corresponding Declaration provision).	No exception.
	Trial within reasonable time. (Declaration Article 5).	No exception.
	Habeas Corpus (Declaration Article 5).	No exception.

<u>Article</u>	<u>Right</u>	<u>Right not applicable in case of -</u>
	Compensation for false arrest(No corresponding Declaration provision).	No exception.
10	Freedom from imprisonment for debt(No corresponding Declaration Article).	No exception.
11	Liberty of movement and free choice of residence within state(Declaration article 10).	Laws adopted for security or general interest.
	Right to leave country (Declaration article 10).	Lawful deprivation of liberty; obligation of military service.
12	Freedom of alien from arbitrary expulsion(No corresponding article).	Illegal entry.
13	Fair hearing in all cases (Declaration article 6).	No exception.
	Public trial in criminal cases(Declaration article 7).	No exception.
14	Freedom from <u>ex post facto</u> laws(with special explanation in regard to war criminals)(Declaration article 7).	No exception.
15	Right to juridical personality(Declaration article 12, "recognition as a person before the law").	No exception.
16	Freedom of religion(Declaration article 16).	Laws protecting public order, welfare, morals, rights of others.
17	Freedom of information and expression. ^{62/} (Declaration articles 17, 18)	Publications inciting to alter government by violence, to promote disorder or crime; obscenity; suppression of human rights; publications injurious to fair conduct of legal proceedings; libel; slander; advocacy of national, racial, or religious hostilities inciting to violence. ^{63/}

<u>Article</u>	<u>Right</u>	<u>Right not applicable in case of -</u>
18	Right of Assembly(Declaration article 19).	Assembly which is not peaceable. Restrictions may also be imposed to protect life or property; to prevent disorders or obstruction of traffic and free movement of others.
19	Right of Association(Declaration article 19).	Promotion of interests which are not legitimate or lawful objects.
20	Freedom from discrimination in relation to rights set forth in the Covenant, equal protection against arbitrary discrimination or incitement thereto(Declaration article 3).	No exception.

In addition to the above, the Covenant provides in Article 21 that advocacy of national, racial, or religious hostility inciting to violence shall be prohibited;^{64/} and in Article 22 that no state(or person) may engage in any activity aimed at the destruction of rights prescribed in the Covenant. ^{65/}

Comparison Between Declaration and Covenant

It will be seen that the following rights are contained in the Covenant which are not contained in the Declaration:

Freedom from mutilation or scientific experimentation(article 6); prompt information of charges in case of arrest(article 9); compensation for false arrest(article 9); freedom from imprisonment for debt (article 10); freedom of alien from arbitrary expulsion(article 12); prohibition of advocacy of national or religious hostility(article 21).

The following rights are contained in the Declaration which are not contained in the Covenant:

Freedom from interference with reputation, privacy, family, home, correspondence(article 9); right of asylum(article 11); equal freedom to contract marriage(article 13); right to property(article 14); right to a nationality(article 15); right of petition(article 20); right to participate in government(article 21); all social and economic rights (articles 22-30); rights of minorities(article 31).

In other words, the Covenant deals exclusively with civil rights whereas the Declaration deals with civil, social and economic, and miscellaneous rights.66/

It is worthy of note also that the Covenant does not include all civil rights. Even such elementary rights as ownership of property and participation in government have not been included. The reason given for this was that the beginning must be relatively modest; that nations will not be willing to enter into a covenant which contains rights whose definitions vary considerably in different countries. Under the circumstances it is surprising that a majority of the Commission was able to agree on as many rights as are contained in the Covenant; and the possibility must be envisaged that in subsequent re-examination the Covenant may be narrowed rather than broadened in scope.

Responsibilities of States.

The undertaking of each state which becomes a party to the Covenant is expressed in Article 2: that its laws should secure the enjoyment of the rights set forth in the Covenant; that it should insure that any person whose rights are violated has an effective remedy, enforceable by independent judiciary and supported by police and executive officer. As an instrument ratified by nations in accordance with their constitutional processes and containing detailed provisions rather than statements of general principles, it would constitute a legally binding obligation. This obligation extends not only to the passage of laws but also to the ensurance of their enforcement.67/

IMPLEMENTATION

Within the lapse of less than two years the United Nations has made considerable strides in working out the details of a declaration and the substantive articles of a covenant. When it comes to the all-important question of what the United Nations can or should do when a right is violated, a majority of the Human Rights Commission members have been quite unwilling to commit themselves. At the first session of the Nuclear Commission, the significance of this problem was recognized; 68/ at the first session of the full Commission, only three members made formal, specific suggestions for implementation; 69/ and at the first session of the Human Rights Drafting Committee these suggestions and two additional suggestions 70/ were set forth in an information memorandum produced by the Secretariat on request 71/ but no committee action was taken with respect to them.

At the second session of the Human Rights Commission a report was made by a four-member working group on implementation 72/ but this report was not approved by the Commission. The report was, however, sent to all member governments for comment, together with the approved drafts of the Declaration and Covenant, since it is necessary before further consideration is given to the Declaration and the Covenant to know whether they are to contain measures of implementation and if so what these measures should be.

Implementation of the Covenant

The principal conclusions reached by the four-member Implementation Working Group relative to the Covenant are as follows:

1. The Covenant should become part of the laws of states accepting it. 73/
2. The General Assembly, the Economic and Social Council, and the Human Rights Commission should have the right to make recommendations regarding violations of the Covenant. 74/
3. The right of petition (alleging violations of the Covenant) should be open to individuals and groups as well as to states. 75/
4. Machinery for petitions should be as follows:

A standing committee of five or more independent persons should be appointed, to be aided by an enlarged secretariat staff and by subcommittees. The committee should screen petitions and negotiate in private session. 76/

5. Supervision and enforcement by the United Nations is legally possible 77/ and advisable; this should be done at a later stage by an organ of the United Nations or a Specialized Agency. 78/ An international court on Human Rights is advisable. 79/ The General Assembly, rather than the Security Council, should "ensure .. implementation of decisions of the ... court". 80/

Implementation of the Declaration

There was some indication of a desire to provide for implementation in the Declaration. 81/ Actually, however, the Commission approved no provision for implementation of the Declaration, and the Implementation Working Group indicated that the problem of implementation did not arise with regard to the Declaration in view of its "non-binding nature". 82/

As at present drafted, even without the inclusion of specific articles on implementation along the lines suggested by the Implementation Working Group, it is possible that the Covenant would be considered to have removed the barrier imposed by the Charter's domestic jurisdiction clause. 83/ At the very least, one country which has ratified the Covenant might complain, outside of the United Nations, of violations by another country which has ratified the Covenant; and in view of the essentially domestic nature of the Covenant's obligations, this could concern matters within the offending country's domestic jurisdiction. According to the opinion of the Working Group, such complaint could be made in the forum of the United Nations. 84/

It would not seem, however, that any such removal of the barrier would apply to the Declaration. Indeed, the project of having recommendations made as to specific violations of an instrument which is an expression of aspirations and is not binding could present considerable difficulties. 86/

Work accomplished: work to be done:

The Commission on Human Rights has produced a declaration, designed to be a statement of aspirations, that summarizes the civil, social and economic and other rights which the Commission members felt to be most important. It could be regarded as complete except for a preamble. Whether it will be further expanded, or contracted, whether its emphasis should be on the right of the individual or the right of the state, are among the principal questions facing the Commission and other bodies which will recast it in shape for presentation to the General Assembly. 87/

The Commission has also produced a partial draft of covenant, which is designed to set forth individual rights which member states

would be bound to observe. The Covenant contains a limited number of civil rights. A principal question to be decided in connection with the Covenant is (as in the case of the Declaration) whether it is to be expanded or contracted. 88/ Another question is to what extent failures to comply with the Covenant's provisions shall warrant international action.

In addition the Commission has authorized the circulation of a working paper on implementation, approved by four of its members.

The work on the international bill of human rights 89/ has reached the half-way mark. Member nations have by now received the Commission's drafts, and their comments must be formulated. There remains consideration at sessions of the Human Rights Drafting Committee, the Human Rights Commission, the Economic and Social Council, and the General Assembly, all to be held this year.

The work on the bill of rights to date (February 1948) has been more rapid and more ambitious than many commentators had believed possible. The results of the Commission's second session cannot be considered in any way final so far as the United Nations or any individual member states are concerned. The eighteen members of the Commission are not necessarily a cross section of the United Nations as a whole; and even the governments whose members served on the Commission are not bound by the admittedly tentative conclusions which the Commission reached.

What the Commission sincerely strove to do was to create an atmosphere and the framework of a system in which human rights can be recognized to a fuller extent than hitherto dreamed of. The terrain over which the Commission traveled was absolutely new. Whether or not member nations will feel that the trail blazed by the Commission leads in the right direction will become evident over the course of the next few months.

FOOTNOTES

1/ See the U. N. declaration of Jan. 1, 1942 which stated that the signatory governments were "convinced that complete victory over their enemies is essential to ... preserve human rights ..."

2/ See Dumbarton Oaks Proposals for a General International Organization (1944) Chapter 9, Section A, par. 1, and Chapter XL of Inter-American Conference on Problems of War and Peace.

3/ U. N. Charter; preamble (2d par.) art. 1, par. 3; art. 13, par. 1(b), art. 55(c), art. 62, par. 2, art. 68, art. 76(c). The background on this subject, with particular reference to the responsibility of nongovernmental organizations and individuals in the United States for the creation of the Commission on Human Rights and work on an international bill, is given in an article on "The Charter and the Promotion of Human Rights" by Alice M. McDiarmid in the Bulletin of Feb. 10, 1946, p. 210, and Yearbook of the United Nations, 1946-47, p. 523.

4/ U. N. doc. E/HR/3, Apr. 26, 1946 or U. N. doc. A/148, Oct. 24, 1946. The declaration was written under the auspices of the American Law Institute.

5/ U. N. doc. E/HR/1, Apr. 22, 1946.

6/ U. N. doc. E/CN.4/2, Jan. 8, 1947, prepared by the Inter-American Juridical Committee, working under the mandate of the Mexico City resolution.

7/ Included among the bills which have been prepared are the following: International Bill of Rights, Proposal submitted by the American Federation of Labor (U. N. doc. E/Ct.2/2, Aug. 20, 1946); draft General Assembly resolution submitted by India (U. N. doc. E/CN.4/11, Jan. 31, 1947); draft Charter of International Human Rights and Duties submitted by Ecuador (U. N. doc. A/341, Aug. 21, 1947); Report of the UNESCO Committee on the Philosophic Principles of the Rights of Man (UNESCO/Phil/10, Paris, July 31, 1947); Draft International Bill of Human Rights prepared by the Committee on Human Rights, Commission to Study the Organization of Peace; National Catholic Welfare Conference--A Declaration of Rights; Declaration of Human Rights, submitted by the American Jewish Committee, Jan. 1945; Draft of an International Bill of Rights, by the American Association for the United Nations and the American Jewish Conference; Declaration of the Rights of Man - London Daily Herald, Apr. 20, 1940; Enumeration of Subjects for Consideration as to an International Bill of Rights, by the American Bar Association;

A Charter for the United Nations - The Rights of Every Man, recommended by Free World; Declaration of the International Rights and Duties of the Individual by Gustavo Gutierrez; An International Bill of the Rights of Man, by H. Lauterpacht, Columbia University Press, New York; International Bill of Rights: Principles of the Rights and Duties of Individuals by Irving A. Isaacs; International Bill of Rights suggested by Rollin McNitt; An International Bill of Rights by the Rev. Wilfred Parsons, S.J.; Declaration of the Rights of Man by H. G. Wells; National Resources Planning Board: A New Bill of Rights. See also U. N. doc. E/600, Dec. 17, 1947, p. 8, par. 28, referring to communications concerning human rights from writers whose identity may not (under Economic and Social Council ruling) be divulged.

8/ The members of the nuclear Commission were chosen to serve as individuals rather than as government representatives. Except for the U.S.S.R. and Yugoslav members, they were elected by name by the Economic and Social Council at its first session. The membership of the Commission at its first and only session was as follows: Chairman, Mrs. Franklin D. Roosevelt (U. S.); Vice Chairman, René Cassin (France); Rapporteur, K. C. Neogi (India). Other members were: Paal Borg (Norway), Alexander Borisov (U.S.S.R.), Dusan Brkish (Yugoslavia), Fernand Dehousse (Belgium), Victor Haya de la Torre (Peru), C. L. Hsia (China).

9/ U. N. Journal of the Economic and Social Council, No. 12, p. 124.

10/ The meetings were held in a reading room in Hunter College. Three tables were joined in U-shape around which the delegates sat. The public sat on wooden benches which had been moved in for the occasion. There was no amplifying system. Three members were unable to attend, Messrs. Borg, Dehousse and Haya de la Torre. One of the six persons present was replaced a week before adjournment by a substitute who explained that his predecessor had actually had no authority to act and who refused to be bound by this predecessor's votes. At one time a new interpreter broke down completely after the first few words of translating a rather lengthy speech delivered by the French member and the situation was saved by the Chairman (Mrs. Roosevelt) completing the translation and acting as interpreter until a substitute could be found.

11/ The Nuclear Commission recommended that the full Commission should draft an international bill of rights "as soon as possible." (U. N. doc. E/38 Rev. 1, p. 6, May 21, 1946, resolution B,1.) This recommendation was neither approved nor disapproved by the Economic and Social Council. However, at the first session, second part, of the General

Assembly a resolution was passed transmitting the draft declaration presented by Panama to the Economic and Social Council for reference to the Commission on Human Rights "for consideration by the Commission in its preparation of an international bill of rights" (General Assembly resolution 43, 1st sess., second part).

12/ U.N. doc. E/56/Rev. 2, July 1, 1946, p.3; U.N. doc. E/38/Rev. 1, May 21, 1946, p. 7.

13/ Its membership was as follows for the first session: chairman, Mrs. Franklin D. Roosevelt (U.S.); vice chairman, P. C. Chang (China); rapporteur, Charles Malik (Lebanon); other members present at the session were: William R. Hodgson (Australia); T. Kaminsky (Byelorussian Soviet Socialist Republic); F. Nieto del Rio (Chile); Osman Ebeid (Egypt); Mrs. Hansa Mehta (India); Ghassame Ghani (Iran); Carlos P. Romulo (Philippine Republic); Charles Dukes (U.K.); V. F. Tepliakov (U.S.S.R.); Jose A. Mora (Uruguay); V. Ribnikar (Yugoslavia). The following members were unable to attend: Fernand Dehousse (Belgium); Ricardo J. Alfaro (Panama); G. D. Stadnik (Ukrainian Soviet Socialist Republic); the first two were represented respectively by Roland Lebeau and German Gil Guardia, both of whom participated without vote. In keeping with a compromise worked out by the Economic and Social Council for all commissions, the individuals serving on the Commission were chosen in consultation with the U.N. Secretary-General so that a well-balanced group could be assured; the members served however as government representatives in that they were (unlike the case of nuclear Commission members) subject to instructions from their governments.

14/ U.N. doc. E/CN.4/SR 8, Jan. 31, 1947, p. 4.

15/ Dr. Malik of Lebanon, U.N. doc. E/CN.4/SR 9, Feb. 1, 1947, p. 3. The American Federation of Labor Representative, whose draft declaration had been specifically criticized by Dr. Ribnikar, stated that Dr. Ribnikar had placed greater importance upon common interest than that of the individual and had considered the idea of individual liberty obsolete. The American Federation of Labor considered that individual liberty was perfectly compatible with the interests of the community. (U.N. doc. E/CN.4/SR 8, Jan. 31, 1947, p. 5).

16/ U.N. doc. E/CN.4/4, Jan. 28, 1947.

17/ The first session of the eight-member Human Rights Drafting Committee was held in June 1947; the second session of the Human Rights Commission in December 1947. The Commission's report was submitted to member nations for comment in January 1948. The second session of the Human Rights Drafting Committee is scheduled for May 1948; the third session of the Commission for May 1948; the seventh session of the Economic and Social Council for July 1948 and the third session of the General Assembly for September 1948.

18/ Membership of the Human Rights Drafting Committee was as follows: chairman, Mrs. Franklin D. Roosevelt; vice-chairman, P. C. Chang; rapporteur, Charles Malik; other members were; W. R. Hodgson (Australia), H. Santa Cruz (Chile), René Cassin (France), V. Koretsky (U.S.S.R.), Geoffrey Wilson (U.K.).

19/ U.N. doc. E/CN.4/AC.1/3/Add.1, June 11, 1947.

20/ U.N. doc. E/CN.4/AC.1/8, June 11, 1947.

21/ U.N. doc. E/CN.4/21, annex D, July 1, 1947.

22/ Ibid., annex F. The substance of these articles is summarized in "Concerning Freedom of Information", Department of State publication 2977, p. 12.

23/ The term "covenant" is used in this article in lieu of the more ordinary terms "convention" or "treaty", in view of a decision to this effect reached by the Human Rights Commission at its second session.

(U.N. doc. E/600, Dec. 17, 1945, p. 6, par. 18). No distinction has been made by the Commission between the three terms, which have been used by its members to designate a legally binding document, to be ratified by states in accordance with their constitutional processes. The United Kingdom wished to use the term "bill". Other members objected to its use in lieu of "covenant" on the ground that the word could not be adequately translated into any other working language. (The French translation is charte, which also means "charter".) They were, however, willing to use the word "bill" to cover both the declaration and covenant. Since the decision on terminology was not reached until close to the end of the Commission's second session, the report of the second session is not consistent in using "covenant" in place of "convention."

24/ U. N. doc. E/CN.4/21, Annex B, July 1, 1947. Reference to civilized nations is made ibid, p. 29, Annex B 1.

25/ Ibid, Annex G. The substance of these articles is summarized in "Concerning Freedom of Information", Department of State Publication 2977, p. 12.

26/ Arts. 47 and 48 of the Secretariat declaration (Ibid, Annex A.) provided that it was the duty of each member to respect the rights enumerated; that these rights should be deemed fundamental principles of international law and of national law of each member state, and their violation deemed a matter of international concern.

27/ Eight members who had attended the first session attended the second as well. The representatives or alternates who attended the second session and had not attended the first session were as follows: Fernand Dehousse, Belgium (representative); A. S. Stepanenko, Byelorussian Soviet Socialist Republic (representative replacing T. Kaminsky); E. Cruz-Coke, Chile (alternate); C. H. Wu, China (alternate); Omar Loutfi, Egypt (alternate); A. G. Pourevaly, Iran (alternate); M. Amado, Panama (alternate); M. Klekovkin, Ukrainian Soviet Socialist Republic (representative replacing G. D. Svadnik); A. E. Bogomolov, U.S.S.R. (representative replacing V. F. Tepliakov); J. J. Carbajal Victorica, Uruguay, (alternate).

28/ Several members felt that a covenant, being a document of the most intricate and technical nature, could not possibly be worked out in satisfactory form in a series of meetings lasting less than three weeks; that this time would be best spent in completing a well drafted, thoroughly thought-through declaration. This was the position taken by both the U.S. and U.S.S.R. at the start of the

session. Others expressed the view that the definite mandate of the Commission was to produce a "bill"; that a declaration which would have at most a morally binding force, could under no possible interpretation be considered a "bill," and that to finish the second session of the Commission without a covenant would be to "bury" the Commission on Human Rights. This was the attitude taken by the United Kingdom and by Belgium and almost all other smaller countries represented on the Commission. In addition, certain members drew attention to the resolution of the Economic and Social Council that the Commission must make suggestions regarding ways and means for effective implementation of human rights, (U. N. doc. E/38 Rev. 1, May 21, 1946, p. 7. See supra Discussion of Nuclear Commission Session.)

29/ Working Group on the Declaration: Stepanenko (Byelorussian Soviet Socialist Republic), Cassin (France, Rapporteur), Amado (Panama), Romulo (Philippines), Bogomolov (U.S.S.R), Mrs. Roosevelt (U.S., Chairman). Working Group on the Covenant: Wu, Nen-Ju (China), Loutfi (Egypt), Malik (Lebanon, Rapporteur), Lord Dukeston (United Kingdom, Chairman), Ribnikar (Yugoslavia). Cruz-Coke (Chile) was appointed but was unable to attend. Working group on Implementation: Hodgson (Australia), Dehousse (Belgium, Rapporteur), Mehta (India, Chairman), Pourevaly (Iran), Klekovkin (Ukrainian Soviet Socialist Republic). Carbajal Victorica (Uruguay) was appointed but was unable to attend.

30/ In general the Declaration follows the form of the Human Rights Drafting Committee's declaration - it is a rather lengthy document with a certain amount of technical detail included. The advantages of a short declaration (which could be easily memorized by any school child) were apparently considered to be outweighed by the advantages of a statement which, in the event that governments refuse to become parties to the covenant in any substantial numbers, would furnish a guide post for United Nations action. In addition, special interest in individual articles and the shortness of time at the declaration working group's disposal made for length rather than brevity in drafting (a common enough experience in the United Nations and other fields). The U. S. submitted to the Commission a "short form" declaration consisting of ten brief articles describing in 350 words the rights sought to be covered (U. N. doc. E/600, Dec. 17, 1947, p. 25). While the decision of the working group was to produce a substantially longer draft, the Commission toward the close of its session recognized that the definitive declaration must be as short as possible (U. N. doc. E/600, p. 16, par. 50).

31/ Originally provision was made for "aid of counsel". This provision was changed however in view of the fact that in certain administrative cases lawyers are not available as of right to the parties

concerned.

32/ Provision is made for having procedure explained in a manner which the party can understand and the party is given the privilege of using a language which he can speak. This provision was warmly advocated by the Philippine members. The U.S.S.R. member would have preferred an even stronger provision. Certain of the civil law countries opposed the provision adopted regarding explanation of procedure, since it was not provided for under their laws and regarded as undesirable.

33/ It will be noted that a distinction is made between a "fair hearing" for civil and criminal cases, and a "fair public trial" for criminal cases.

34/ Special explanation is made covering cases of war criminals.

35/ The quoted provision departs from the language employed in Arts. 1(3), 13(1,b), 55(c), 76(c) of the Charter -- "without distinction as to race, sex, language, or religion". The view expressed by the United States was that the four categories described in the Charter were not meant to be exclusive, since the Charter refers to "human rights ... for all".

36/ Cf. Art. 17, Draft Declaration proposed by Panama, U. N. doc. E/HR/3, Apr. 26, 1946 or U. N. doc. A/148, Oct. 24, 1946.

37/ In the Declaration working groups' article, provision was made that "women shall have the right to work under the same conditions as men", but an official comment was inserted that legislation providing protection for women, particularly in regard to heavy or harmful work, may be necessary. (U. N. doc. E/CN.4/57, Dec. 10, 1947, Art. 30). The change in the article as approved by the full commission was made on the suggestion of the Uruguayan member, Dr. Juan J. Carbajal Victorica.

38/ Art. 21 -- Everyone "without discrimination" has the right to participate in government; Art. 25 -- Everyone "without distinction as to economic and social conditions" has the right to preservation of health; Art. 27 -- There shall be access for higher education "without distinction as to race, sex, language, religion, social standing, financial means, or political affiliation".

39/ The article on religion makes it clear that this right is not limited to the act of worship, but extends to teaching and observance.

The freedom of information articles were adopted from the Human Rights Drafting Committee's declaration without change and without discussion with the understanding that they would be referred to the Freedom of Information Conference to be held in Geneva, Mar. 23, 1948, as well as the Subcommission on Freedom of Information and of the Press. The article on assembly and association enumerates the various purposes for which such activity is justified — purposes of a political, economic, religious, social, cultural trade-union or any other character, not inconsistent with the Declaration. Participation in international associations is permitted, but an official comment of the Commission provides that the right is not intended to extend to international political associations forbidden by law. (U. N. doc. E/600, Dec. 17, 1947, p. 28).

40/ The right to petition the United Nations was objected to by certain members in previous sessions of the Commission and the Drafting Committee on the ground that no machinery had yet been worked out for its implementation. In the second session of the Commission, detailed machinery for dealing with petitions was discussed in the Covenant Working Group and was provided for by the Implementation Working Group.

41/ The right is granted everyone to take an effective part in the government of his country and provision is made for periodic elections. The elections are to be "free, fair and by secret ballot". An official comment of the Commission provides that exceptions can be made in cases of non-metropolitan territories. It was pointed out that in certain primitive, illiterate communities the only way to obtain a fair election is by counting noses. The French member contended that the article should not be construed to require a specific form of ballot, and referred to the "family vote", which confers on adults voting rights which would belong to minors. (U. N. doc. E/CN.4/57, Dec. 10, 1947, p. 13).

42/ The Human Rights Drafting Committee's provision on this point was the right to "perform socially useful work" (U. N. doc. E/CN.4/21, July 1, 1947, p. 79, Art. 29).

43/ Thus the state must take all necessary steps to prevent unemployment (Art. 23) and must maintain or ensure the maintenance of social security measures (Art. 26). It is to take such measures as are "within its power" to insure opportunity for useful work (Art. 23); access to higher education shall be such as can be provided by the state or community" (Art. 27) and the responsibility of the state or

community for health and safety can be fulfilled only by provision of adequate measures (Art. 25); marriage and the family shall be protected by the state and society (Art. 13). There is, however, no reference to state responsibility in connection with pay or working conditions (Art. 30) or fundamental education (Art. 27).

44/ Provision that the state shall conform to the will of the people— Art. 21. Although freedom from discrimination in contracting marriage is here classified as a civil right, the protection of marriage would appear more properly to be a social right.

45/ The reason for this discrepancy lies partly in the fact that persons are so used to the state providing fair trial, et cetera, that nothing appears necessary to be said in this connection. On the other hand the social and economic rights are of recent origin, and mention of the state's duty to insure the right appeared to some desirable. In this connection note must be made of the respective influences of two differing schools of thought in the Commission. The members who were most interested in the definition of civil rights approached the Declaration as a statement of principles, setting forth in general terms the positive rights to be given the individual in the tradition of the great bills of rights of the past. They stated that the proper place for expressing of duties of states with respect to these rights would be in a covenant or covenants. Certain other members, however, participated little in the drafting of the civil rights provisions, but were actively interested in social and economic rights. These members laid stress upon the importance of state action with respect to social and economic rights; and they were unwilling to conceive of the present need for a covenant or covenants. It was the pressure of their arguments which gave impetus to specific wording relating to state responsibility in the social and economic field. For example, the proposal that marriage be protected by the state was made by the Byelorussian member (addition of the responsibility of society -- which would include the church -- was not suggested by him); the proposal that the state take all necessary steps to prevent unemployment was also made by the Byelorussian member; on the other hand the change from a requirement that the state ensure higher education to a statement referring to higher education "as can be provided by the state or community" was made by the United Kingdom member. The U.S.S.R. member evinced great interest in one civil right -- freedom from discrimination. He proposed the following article (which was not accepted):

"All people are equal before the law and shall enjoy equal rights in the economic, cultural, social and political

life, irrespective of their race, sex, language, religion, property status, national or social origin.

"Any advocacy of national, racial and religious hostility or of national exclusiveness or hatred and contempt, as well as any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion, constitute a crime and shall be punishable under the law of the state."

This article had originally been proposed by Mr. Borisov (U.S.S.R.) in the first session of the Subcommittee on Prevention of Discrimination and the Protection of Minorities (U. N. doc. E/CN.4/Sub.2/21, Nov. 26, 1947).

46/ In each case a change was made from the Human Rights Drafting Committee's wording. The right of asylum, formerly limited to seeking asylum from persecution, is now extended to the right to "seek and be granted" asylum. One of the strongest proponents of this change was the French member, who cited the case of Spanish loyalists finding refuge on French soil. In the case of nationality a provision is added to the assertion of everyone's right to a nationality, to the effect that the U.N. shall protect those who do not enjoy the protection of any government. These rights may be noted as particularly vivid examples of the distinction between a declaration and a covenant. While the principle of granting asylum and granting nationality is recognized, it is obvious that a very clear definition of how these rights are to be construed must be worked out before any state will be willing legally to enforce them within its own jurisdiction.

47/ In the Human Rights Drafting Committee, a redraft of the original Secretariat provision (U.N.doc.E/CN.4/21, July 1, 1947, p.23, art.46) was made by Professor Cassin (*ibid.*, p.65, art.44) and approved with minor changes without any prolonged attempt on the Committee's part to agree on a definitive version. (*ibid.*, p.81, art.36). The Committee referred this draft to the Subcommission on the Prevention of Discrimination and the Protection of Minorities. In the Declaration as submitted by the Commission, both the Drafting Committee's version and the subcommission's version are included. (U.N.doc.E/600, Dec.17, 1947, p.21, art.31). Each of these versions grants the right to groups to establish and maintain schools and cultural or religious institutions and use their own language in the press, public assembly and courts. No specific right is given to share in public funds for this purpose; such a right was provided in the original Secretariat proposal (U.N.doc.E/CN.4/21, July 1, 1947, p.23, art.46).

48/ U.N.doc.E/600, Dec.17, 1947, p.23, par.2.

49/ Discussion by Lord Dukeston (U.K.) in the full Commission in connection with art. 4 of the Covenant.

50/ Art.16.

51/ Cf. Draft Declaration presented by Panama, art.18; Draft Bill prepared by the Commission to Study the Organization of Peace, art.3, both of which use the quoted wording.

52/ Nor does one man's right to manifest his beliefs in observance (art.16) allow him to kill another in the rite of human sacrifice, since under art.4 the other has the right to life.

53/ Declaration art. 4 provides for right to life.

54/ Covenant art. 5.

55/ Covenant art. 8.

56/ Declaration art. 8.

57/ Declaration art. 19 provides for the right of assembly.

58/ Covenant art. 18.

59/ Freedom of movement and choice of residence may be limited by laws adopted for security or in general interest(art.10); the right of asylum is not to be granted criminals or those acting against the aims of the U.N.(art.11); a similar limitation is placed on U.N. protection of stateless persons(art.15).

60/ Certain members expressed the view that an over-all limitation clause rather than specific limitations in each article would be preferable. The United States stated its preference for having the substantive articles of the Covenant expressed without any limitations but to have a single limiting clause expressed as follows:

"The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all."

This view was agreed to by certain other members.(U.N.doc.E/600,p.37, par.4). The United Kingdom, although strenuously opposing a general over-all limitation clause on the ground that it would render the Covenant "innocuous" and bring the U.N. as well as the Covenant into discredit,(ibid.,p.37,par.5) sponsored successfully the insertion of an article allowing a state in time of "war or other public emergency" to take measures derogating from its obligations under the Covenant "to the extent strictly limited by the exigencies of the situation".(ibid.,p.30, Covenant art.4)

61/ Provision is made for conscientious objectors performing service of a non-military character. A provision that conscientious objectors should be "compensated with adequate maintenance and pay" was defeated. (ibid.,p.39)

62/ As in the case of Declaration arts. 17 and 18, the Covenant article on freedom of information and expression was taken from the Human Rights Drafting Committee's Draft and was not specifically passed on by the Commission. An alternate version suggested by the United States is also printed. The United States version does not contain specific limitations but relies on an over-all limitation clause.

63/ This last limitation is not contained in art. 17; it is set forth separately in art. 21.

64/ No corresponding Declaration article.

65/ Since this right involves implementation, it is considered in the report on implementation; the Commission reached no definite conclusion as to whether it should or should not later be included in the Covenant.

66/ The distinction is justified by those supporting the two drafts on the assumption that the Covenant is a legally binding agreement whereas the Declaration is a statement of aspirations, certain of which can be placed in a covenant forthwith, others placed in covenants at a later time and still others left for an indefinite period as moral rather than legal obligations. Under this assumption it is necessary to seek something approaching a least common denominator of rights presently contained, or contemplated for adoption, in the laws of a substantial number of member nations, to constitute the material for the first convention. It so happens that rights of this character are the long-established civil rights. Social and economic rights, unknown until recently, are not generally or consistently contained in or projected for enough member nations' laws to make a proposal for a covenant on the subject worthy of immediate consideration. Analysis of the constitutions of member states compiled by the U.N. Secretariat at the time of the first meeting of the Human Rights Drafting Committee (U.N. doc. E/CN. 4/AC.1/3/Add.1) makes this point clear. In the case of certain Commission Members who expressed more interest in the social and economic rights than in the civil rights, this was one reason for their voting against the proposed covenant; but these members made no counter-proposal for a covenant dealing with social and economic rights.

67/ The Covenant is to be open to accession by all states (art.23). Provision is made for General Assembly approval in the case of states not members of the U.N. or parties to the International Court of Justice. A U.S. alternative article in the body of the text contains no such limiting provision. It will come into force as soon as two-thirds of the U.N. members have acceded to it. The disability of Federal-State Governments to bind states, provinces or cantons is recognized in art. 24, the wording of which is derived from that successfully worked out in international labor conventions. A special provision is also inserted with respect to colonies and territories (art. 25).

68/ See discussion of Nuclear Commission Session, supra.

69/ The U.S. originated the proposal that implementation be accomplished by one or more treaties or conventions. (U.N.doc.E/CN.4/4, Jan. 28,1947). But it did not offer specific suggestions as to what means of implementation should be contained in the conventions. Australia proposed an International Court of Human Rights (U.N.doc.E/CN.4/15, Feb. 5, 1947). India proposed investigation and enforced redress by the Security Council in the case of all violations of human rights (U.N.doc.E/CN.4/11, Jan.31,1947, par.V).

70/ Proposals made in the Covenant for consideration of violations by the General Assembly, and obtaining of advisory opinions by the International Court of Justice; suggested by the United Kingdom (U.N.doc.E/CN.4/21, July 1, 1947, art. 6, p. 32); general proposals for protection of rights "by the commonwealth of nations" and the constitution of "an appropriate international organ with a view to insuring effective observance of those rights" made by France (ibid., annex H, p. 95).

71/ Ibid., annex H.

72/ Of the six members assigned to work on this group, one (the member from Uruguay) was unavoidably detained and did not arrive in time to participate. Another (the Ukrainian member) refused to participate in any but the first two meetings (seven in all were held) on the ground that discussion of implementation should be postponed.

73/ U.N.doc.E/600, Dec. 17, 1947, p. 44. The report of the Working Group states that measures should preferably be taken by states within their local jurisdictions bringing their laws into line with the Covenant before they ratify the Covenant; otherwise, such measures should be taken within the shortest possible time thereafter.

74/ Ibid., p. 48. The Working Group felt that the Economic and Social Council should delegate its authority to the Commission in this respect.

75/ Ibid., pp. 50 ff. This right should not be granted in the case of petitions from nationals of non-signatory states, or from non-governmental organizations which do not originate in a signatory state. In connection with this point, and also in connection with art. 2 of the Covenant, the question was raised as to whether non-participating states or their nationals could allege a violation. As drafted by the covenant working group, the Covenant would have given the right to non-participating states to allege violations, since the obligations of the Covenant were stated to be "international law." This provision was deleted in the full Commission on motion of the Egyptian member in effect on the ground that non-participating states should not be given benefits without expressly assuming burdens.

76/ Ibid., pp. 53-56.

77/ Ibid., pp. 52, 53. The legal question here considered is whether the United Nations can perform a function not specifically referred to in the Charter. The Working Group concluded that the brief Charter provisions relating to human rights called for specification, and referred to United Nations responsibility for administration of Trieste, based on the peace treaty with Italy, as a precedent for action not specified in the Charter.

78/ Ibid., pp. 56-62.

79/ Ibid., p.61.

80/ Ibid., p.63. The Working Group recognized that the General Assembly has powers of recommendation only.

81/ A proposal was made (rejected by both the Declaration Working Group and the full Commission) that the Declaration contain a provision that all United Nations members shall assure that their law is brought into and maintained in conformity with the principles of the Declaration, and that a system of effective judicial appeal be organized by the State to penalize violations of these principles. (U.N.doc.E/CN.4/57, Dec.10, 1947, (Report of the Declaration Working Group), p.17). Taken in conjunction with the Implementation Working Group's dictum that rights expressed in the Declaration were outside the domestic jurisdiction of member states (U.N.doc.E/600, Dec.17, 1947, p.43, question B) the proposal could in effect have provided to a considerable extent the same implementation for Declaration violations as is provided for the Covenant. While the Implementation Working Group's proposals for an expert committee or for an international court of human rights would not apply to violations of the Declaration, it would seem that the right of the General Assembly, the Economic and Social Council and the Commission on Human Rights to make inquiry and recommendation could in such event apply.

82/ E/600, p.44. Dec.17, 1947.

83/ Article 2, paragraph 7 of the Charter provides: "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII." (Chapter VII deals with Security Council action with respect to threats to the peace, breaches of the peace and acts of aggression.)

84/ Ibid., pp.47, 53.

85/ See letter of Ernest A. Gross, Legal Adviser to the Secretary of State, to the Attorney General, dated Nov. 4, 1947, regarding Shelley v. Kraemer (no. 72, U. S. Supreme Court) submitted as an exhibit in the brief of the United States as amicus curiae; see also Secretary of State's Report to the President on the Results of the San Francisco Conference, Department of State publication 2349, p. 115.

86/ In this connection the question must be considered whether the complaint against South Africa because of its treatment of Indians would have been the proper subject of United Nations recommendation had it not been for treaties and clearly international subject matter involved.

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See proceedings of the General Assembly, First Session, Second part. See also, letter of Ernest A. Gross, Legal Adviser to the Secretary of State, to the Attorney General, dated November 4, 1947, regarding Shelley v. Kraemer (No. 72, U.S. Supreme Court) submitted as an exhibit in the brief of the United States as amicus curiae.

87/ See discussion of definitive plan for drafting of bill, Supra.

88/ In this connection attention may be given to the proposal originally made by the United States (E/CN.4/4) for a series of covenants, which was favorably discussed at the Commission's second session.

89/ The three documents--Declaration, Covenant, and report on implementation are for the time being referred to by the Commission on Human Rights as the "International Bill of Human Rights" (E/600, p. 6, par.18).